

**Application No.:** 10/581,810  
**Filing Date:** March 12, 2007

### REMARKS

Restriction to one of the following groups was required under 35 U.S.C. 121 and 372.

- Group I      claims 1-3, 5-8, 10-11, 15-18 drawn to polynucleotides, oligonucleotides, recombinant vector, immunogenic composition encompassing polynucleotides, and a vaccination kit containing polynucleotide.
- Group II     claims 9, 15-18, drawn to a polypeptide, and immunogenic composition encompassing polypeptide, a vaccination kit containing polypeptide.
- Group III    claims 12-14, drawn to diagnostic methods requiring antibodies.
- Group IV     claim 11, drawn to a second method of using the polynucleotides of Group I.

In response to this Restriction Requirement, Applicant provisionally elects Group II, that is claims 9, and 15-18, with traverse.

The Examiner stated that Groups I-IV lack a single inventive concept under PCT rule 13.1, based on the publication of Risco Gastillo (COST Action 857 and HHNI 1<sup>st</sup> PhD students workshop, September 12<sup>th</sup>- 15<sup>th</sup>, 2004). However, this application claims the benefit of the Spanish Patent Application No.: P200302869, filed December 4, 2003, thus this article was published after the priority date of this application. Therefore, the cited publication can not be used to support the Examiners' statement about the groups of claims lacking a single inventive concept. Applicants assert that the application has indeed a general inventive concept, namely the use of gene NcSAG gene for diagnostic and immunogenic purposes, and therefore this Restriction Requirement is improper and should be withdrawn.

#### *Species election*

If group II was elected, Applicants were required to further elect either a polypeptide or a recombinant protein with one of the changes of A-C: polypeptide or recombinant protein are: A) unchanged:- antigenic protein NcSAG4 of *N. caninum*, characterized by SEQ ID NO:10, B) changed:- chemical or enzymatic change of the protein, C) modified:- a substantial portion of the protein is chemically or enzymatically modified. In response to this restriction requirement, Applicant elects the species B: a polypeptide from chemically or enzymatically modified sequences derived from sequences homologous to SEQ ID NO: 10 conserving their antigenic characteristics.

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*Formal matters*


The Examiner indicated that Claims 1-18 are pending, when in fact Claims 1-20 are pending. The new Claims 19 and 20 were introduced by a Preliminary Amendment, filed June 2 2006.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: March 20, 2008

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